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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/287,673	04/07/1999	RICHARD FERENCZ	PGI-40016	6583

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EXAMINER	
TORRES VELAZQUEZ, NORCA LIZ	

ART UNIT	PAPER NUMBER
1771	12

DATE MAILED: 02/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

A 3-12

Office Action Summary	Application No. 09/287,673	Applicant(s) FERENCZ ET AL.	
	Examiner Norca L. Torres-Velazquez	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 August 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4 and 6-44* is/are pending in the application.

4a) Of the above claim(s) *14-44* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4 and 6-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Applicant's arguments filed on August 13, 2001 have been fully considered.

a. Attorney has failed to affirm the election of claims 1-13 in his communications. Refer to papers 6 and 8. Attorney is requested to affirm the election of these claims in the next communication.

b. Applicants state that the transitional phrase "consisting of" excludes any element, step, or ingredient not specified in the claim.

Examiner agrees in that assertion regarding the use of "consisting of". In the particular independent claims of this application the use of "consisting of" excludes any other element from the claimed continuous web, however, the "comprising of" language of the claim does not preclude the use of additional webs or layers in the nonwoven fabric. Therefore, claims remain rejected over SUSKIND et al.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 11 recites the limitation "said web of substantially endless continuous filaments" in line 2. There is insufficient antecedent basis for this limitation in the claim.

3. Claims 1-4 and 6-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

"Substantially" is a broad term. - - In re Nehrenberg (CCPA) 126 USPQ 383.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 6-13 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by SUSKIND et al. (US Patent 4,808,467) as stated in a previous action.

SUSKIND et al. discloses a spunlaced fabric suitable for disposable medical applications that is produced by hydraulically entangling wood pulp and staple fibers with a continuous filament base web producing a nonapertured high strength fabric, and treating the fabric with a fluorocarbon water repellant. (Column 1, lines 12-17).

The reference teaches the use of polyethylene, polypropylene, polyester and nylon as polymers from which the continuous filaments are made. (Column 3, lines 7-11).

SUSKIND et al. further discloses that the high strength nonwoven fabric comprises a wet laid second fibrous web consisting essentially of 50 to 90 weight percent wood pulp and 10 to 50 weight percent staple length fibers intimately hydroentangled with one another and with the base web. (Refer to claim 1). The reference also discloses that the basis weight of the continuous filament base web is in the range of from about 0.15 to 0.8 ounce per square yard (5.1 to 27.1 g/m^2). (Refer to claim 10).

In example I (Column 5), the fibers of the two webs are hydroentangled by subjecting them to the action of two rows of water jets operating at a manifold pressure of 200 psig, four rows at a manifold pressure of 600 psig, four at 1200 psig and four at 1800 psig.

It is noted that SUSKIND et al. is silent with respect to the claimed interengaged packed loops. However, it is reasonable to presume that the claimed interengaged packed loops are inherent to the invention of SUSKIND et al. Support for said presumption is found in the use of the same starting materials (i.e. continuous filament base web), like processes of making the articles (i.e., the reference uses hydroentangling pressures that read on Applicant's specification), and the production of similar end products (i.e., fabric for medical apparel, etc...). The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. In the alternative, the presently claimed hydroentanglement in the form of interengaged packed loops would obviously have been provided as a result of the inventive high strength hydroentangled nonwoven fabric of the SUSKIND et al. reference. *Note In re Best*, 195 USPQ 433.

Regarding claims 8-10 and 12-13, the Applicant's ranges for the limitations of machine direction elongation, cross direction elongation, fiber entanglement frequency, fiber entanglement completeness value and fiber interlock value are broad and encompass typical values that are found in the prior art. Further each of the elements are recognized as result effective variables in this field of endeavor and it has been held that discovering optimum values would have been or result effective variables involves only routine experimentation.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 703-306-5714. The examiner can normally be reached on Monday-Thursday 7:30-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

nlt
January 31, 2002

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700